

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

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In re	:	Chapter 13
TERRENCE BROOKER	:	
DEBTOR	:	
TERRENCE BROOKER	:	
PLAINTIFF	:	LEAD CASE No. 14-12878 MDC
Vs.	:	
CITADEL FEDERAL	:	
CREDIT UNION	:	
DEFENDANT	:	
	:	

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**DEBTOR'S COMPLAINT PURSUANT TO 11 U.S.C. § 506(a), 522(F) AND  
BANKRUPTCY RULE 3012 TO DETERMINE THE VALUE OF SECURITY  
AND CREDITOR'S ALLOWED SECURED CLAIM**

The Debtor, by his attorney, requests that this Court, pursuant to 11 U.S.C. 506(a) AND 522(f) of the Bankruptcy Code and Bankruptcy Rule 3012, determine the value of the Debtor's real estate located at 231 N. Highland Ave., Lansdowne, PA 19050 and determine the amount of **Citadel Federal Credit Union** allowed secured claim. In support of this complaint the Debtor avers as follows:

1. The Debtor filed the instant voluntarily petition under Chapter 13 of the Bankruptcy Code on April 11, 2014 in the United States Bankruptcy Court for the Eastern District of Pennsylvania.
2. The Court has jurisdiction over the proceeding pursuant to 28 U.S.C. 1334, 157(b)(2)(K), 506, and 1322 of the Bankruptcy Code. This is a core proceeding.

3. Previously, Debtor filed for protection under the Bankruptcy Code on July 6, 2010. Debtor filed an adversary action against Citadel Federal Credit Union on or about December 14, 2010.
4. The Court entered an order in favor of the Plaintiff on March 7, 2011. **See Exhibit A.**
5. Debtor owns and resides at the real property located 231 N. Highland Ave., Lansdowne, PA 19050. (the “Collateral”).
6. Debtors executed a mortgage and note in favor of American Home Mortgage. American Home Mortgage has not filed a proof of claim in the present case; however, they filed a claim in the last case in the sum of \$202,258.37. **See Exhibit B**
7. The 1<sup>st</sup> Mortgage was duly recorded and constitutes a first priority perfected lien against the Collateral.
8. Debtor also executed in favor of Citadel Federal Credit Union a certain promissory note and mortgage. Citadel Federal Credit Union has not filed a proof of claim in the present case; however, they filed a proof of claim in the last case in the amount of \$24,895.02. As a result, Citadel Federal Credit Union constitutes (the “2<sup>nd</sup> Note”), secured by a certain mortgage of even date therewith encumbering the Collateral (the “2<sup>nd</sup> Mortgage”). **See Exhibit C**
9. Debtor obtained an appraisal on the property located at 231 N. Highland Ave., Lansdowne, PA 19050 in the sum of \$115,000.00. **See Exhibit D**
10. The sum of the first mortgage consumes all of the equity in the Debtors’ equity in the Debtors’ residence; therefore, the second mortgage is completely unsecured.

11. Therefore, within the meaning of 11 U.S.C. § 506(a), the value of 2<sup>rd</sup> Creditor's interest in the estate's interest in the Collateral is \$0.00.
12. Pursuant to 11 U.S.C. § 506(a), no portion of the 2nd Priority Claim is a secured claim and the entire amount thereof is an unsecured claim; therefore, pursuant to In Re McDonald the claim is not bound by 1322(b)(2) and the claim shall be reclassified as a wholly unsecured claim.
13. Under Fed.R.Bankr.P. 3012, the Court may determine the value of a claim secured by a lien on property in which the estate has an interest on motion of any party in interest.

WHEREFORE, the Debtor prays this Court to:

- a. Value of interest of Citadel Federal Credit Union in the real-estate as zero (0).
- b. Determine the allowed secured claim of Citadel Federal Credit Union to be zero (0) pursuant to 11 U.S.C. 506(a) and avoided under 522(f) with the balance allowed as an unsecured claim only.
- c. Grant such other relief as may be necessary and proper under the law.

Respectfully submitted,

Date: September 5, 2014

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